

Members:

Rep. Mark Kruzan, Chair  
Rep. Richard Mangus  
Rep. Dale Sturtz  
Rep. David Wolkins  
Sen. Kent Adams  
Sen. Beverly Gard  
Sen. Glenn Howard  
Sen. Vi Simpson



Lay Members

Michael Carnahan  
Randy Edgemon  
John Fekete  
Hon. Jack Fowler  
Marvin Gobles  
William Goffinet  
Max Goodwin  
John Hamilton  
Kerry Michael Manders  
Regina Mahoney  
David Rector  
Gary Reding  
Alice Schloss  
John Walker  
Lynn Waters

LSA Staff:

Tim Tyler, Attorney for the Council  
Kristin Breen, Fiscal Analyst for the Council

Authority: P.L.248-1996 (SEA 138)

## **ENVIRONMENTAL QUALITY SERVICE COUNCIL**

**Legislative Services Agency  
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Indianapolis, Indiana 46204-2789  
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### **MEETING MINUTES**

**Meeting Date:** September 10, 1998  
**Meeting Time:** 1:30 P.M.  
**Meeting Place:** State House, 200 W. Washington St.,  
Room 431  
**Meeting City:** Indianapolis, Indiana  
**Meeting Number:** 4

**Members Present:** Rep. Mark Kruzan, Chairperson; Rep. Richard Mangus; Sen. Beverly Gard; Sen. Kent Adams; Sen. Glenn Howard; Randy Edgemon; Marvin Gobles; Max Goodwin; Regina Mahoney; Kerry Michael Manders; David Rector; Gary Reding.

**Members Absent:** Rep. Dale Sturtz; Rep. David Wolkins; Sen. Vi Simpson; Michael Carnahan; John Fekete; Hon. Jack Fowler; William Goffinet; John Hamilton; Alice Schloss; John Walker; Lynn Waters.

Representative Mark Kruzan, Chairperson of the Environmental Quality Service Council (EQSC), called the meeting to order at 1:58 P.M. Representative Kruzan then asked Matt Rueff, Assistant Commissioner for the Office of Water Management at the Indiana Department of Environmental Management (IDEM), to present the report from the IDEM Commissioner's office.

Mr. Rueff stated that IDEM Commissioner John Hamilton could not attend the EQSC meeting because he was in Evansville for the opening of the Southwest Indiana IDEM regional office. Mr. Rueff distributed material concerning IDEM's outreach, education, and assistance activities, rulemakings, fees collected, permitting activities, and media

releases.<sup>1</sup> Mr. Rueff indicated that the information concerning permit activities would show that IDEM had no late permits during the month of August and that the administration of the backlog of National Pollutant Discharge Elimination System (NPDES) permits was ahead of schedule.

Mr. Rueff also stated that the press releases contained information about five outreach sessions to be held around Indiana in September to seek public input on the new Risk-Integrated System of Cleanups (RISC) policy being formulated by IDEM.

The next person to testify was Tom Neltner, Assistant Commissioner for the Office of Pollution Prevention and Technical Assistance at IDEM. Mr. Neltner discussed another press release concerning the Simple Steps for Families campaign announced by IDEM and Indiana First Lady Judy O'Bannon.

Mr. Neltner said the goal of the program is to educate families to make their homes safer for children by preventing exposure to common household dangers such as second-hand smoke, mercury, lead, radon, pesticides, and household chemicals. Mr. Neltner said the program would provide information on such things as posters, billboards, brochures, and the Internet.

Senator Howard told Mr. Neltner he would like to see this information specifically distributed to schools, neighborhood groups, and other civic groups such as the Church Federation.

In response to questions from Senator Gard, Mr. Rueff stated that IDEM had recently gone from having four Deputy Commissioners to having two Deputy Commissioners in an effort to "flatten out" the IDEM leadership structure. He said the changes should make IDEM more efficient.

At this point, Representative Kruzan introduced Ginny Mahoney as the newest member of the EQSC. Ms. Mahoney said she worked for Indiana Energy and had been involved in the environmental area for about 20 years. Representative Kruzan asked Ms. Mahoney to serve on Senator Adams' RISC Subcommittee.

Representative Kruzan then asked Randy Edgemon to present the report from the Agricultural Buffer Zone Subcommittee. Mr. Edgemon distributed a written report to the EQSC members.<sup>2</sup>

Mr. Edgemon stated that the Subcommittee identified agricultural runoff as a contributor to stream quality degradation. He said agricultural or conservation buffer zones were a

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<sup>1</sup> A copy of this material is on file with the Legislative Information Center, Room 230, State House, Indianapolis, Indiana. The telephone number of the Legislative Information Center is (317) 232-9856, and the mailing address is 200 West Washington St., Suite 301, Indianapolis, Indiana 46204-2789.

<sup>2</sup>A copy of this report is on file with the Legislative Information Center (see footnote 1).

major step in improving water quality. Mr. Edgemon stated that, when used in conjunction with other conservation methods, buffers can slow water runoff, trap sediments that carry contaminants, and enhance infiltration and groundwater recharge. He also said certain types of buffers are used to prevent soil erosion from winds.

Mr. Edgemon said there are two incentive programs to encourage farmers to take land out of production to establish these buffers. He said the state provides property tax relief by reducing the assessment for land used as buffers from \$450 per acre to \$1 per acre. However, he continued by stating this does not adequately compensate farmers for their lost income and the "red tape" involved in this program is prohibitive.

Also, Mr. Edgemon said the United States Department of Agriculture operates the Conservation Reserve Program (CRP). He said under CRP farmers receive annual payments equal to the rental value of the land, incentive payments for certain practices, and sometimes receive cost sharing assistance for establishing buffers.

He continued by stating Indiana farmers do participate in the CRP program and, as of March 1997, Indiana had 380,000 acres enrolled in the program. However, Mr. Edgemon said limits on the program will result in a reduction of these acres.

Mr. Edgemon said the CRP program also falls short of fully compensating farmers for using acreage to establish buffer zones. He concluded by stating that without augmenting existing financial and educational assistance, Indiana will have limited success in establishing additional buffer zones.

Mr. Edgemon then presented a Non-Point Source Pollution Subcommittee follow up report to the EQSC.<sup>3</sup> He said the Subcommittee had heard presentations from IDEM concerning the watershed pilot project on Wildcat Creek.

Mr. Edgemon said IDEM hoped to learn such things as how best to identify the local "catalyst" group to lead the watershed effort in the community, how to gain the involvement of the appropriate local government agencies, how to coordinate the activities of state agencies, what state resources are needed to support local efforts, and how to assist local governments in developing ordinances and other local rules to effect watershed protection through control of pollution, including non-point source pollution.

Senator Adams then reported to the EQSC on the work of the RISC Subcommittee. He said after IDEM held the five statewide RISC meetings in September, the RISC Subcommittee would meet again in October to draft its final report to the EQSC.

Senator Gard then reported to the EQSC on the work of the Triennial Review and Audit Privilege Subcommittee. Senator Gard distributed the first set of three

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<sup>3</sup> A copy of this report is on file with the Legislative Information Center (see footnote 1).

recommendations to the EQSC.<sup>4</sup> She stated that there would be four or five more recommendations presented at a future EQSC meeting.

Senator Gard continued by stating the first recommendation was that the state must develop an adequate surface water quality data base to make wise surface water quality policy decisions. She said the General Assembly should adopt legislation to establish a broad-based task force to recommend by November 1, 1999, a comprehensive state surface water quality data base collection strategy and recommend an adequate level of funding to implement the strategy.

Senator Gard said the second recommendation was that the state must create statutory authority to issue NPDES permits with both dry weather and wet weather limits. She said the General Assembly should provide IDEM clear legislative authority to issue NPDES permits with different effluent limits for wet weather conditions than for dry weather conditions. She said authority is particularly needed when wet weather directly causes an increase in effluent flow and when wet weather limitations would allow a greater volume of wastewater to be treated and would result in a net improvement in water quality in the receiving stream.

Senator Gard said the General Assembly should establish authority for the Water Pollution Control Board to establish a rainfall control design criteria for municipal sewage collection and treatment systems to significantly reduce discharge to waters of the state.

Senator Gard continued by stating the third recommendation was that the state must create a coherent wetland policy. She said the General Assembly should establish a commission to answer critical wetlands policy questions and report back before December 1, 2001, with recommendations concerning an Indiana wetland policy. She stated the Water Pollution Control Board should not promulgate rules that change the nature or extent of IDEM authority over wetlands until the study is completed.

Senator Gard asked that the members of the EQSC give these recommendations some thought before being discussed at the next EQSC meeting.

The next person to testify was Representative Cleo Duncan. She stated that several residents of Ripley County were present to discuss a problem they were having with a company that wished to build an asphalt plant in their community.

Representative Duncan said the Ripley County Commissioners had rezoned property to an industrial classification thinking that the Paul H. Rohe company would use the property for a storage facility. Instead, she said the company planned to build an asphalt plant. Representative Duncan said many of the County Commissioners have indicated they would not have rezoned the property if they had known an asphalt plant would be built on it.

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<sup>4</sup>A copy of the recommendations is on file with the Legislative Information Center (see footnote 1).

The next person to testify was Lynn Cruse from Sunman, Indiana, representing Residents Against Polluting Environments (R.A.P.E.). Ms. Cruse distributed a large packet of materials concerning the attempt by the Paul H. Rohe Company to obtain the necessary permits from IDEM to operate the asphalt plant and also concerning the health and other environmental problems associated with the operation of asphalt plants.<sup>5</sup>

Ms. Cruse stated that a multimedia approach was needed in IDEM's current air permit process. She also stated that the Ripley County Commissioners felt as if they had been tricked by the Rohe Company.

Ms. Cruse stated that IDEM held a public hearing concerning the air permit for the asphalt plant on July 22, 1998, and more than 200 people attended the meeting. She also said that even though the asphalt plant affected a small, rural community, more than 1,000 people had signed a petition opposing the facility.

Ms. Cruse also stated that the Paul H. Rohe Company had committed violations at other sites they operate in Indiana and should, therefore, be denied a permit to operate the asphalt plant because that showed a lack of the necessary good character to obtain a permit from IDEM.

Ms. Cruse also said the asphalt plant would result in the release of ground level fugitive emissions that are not taken into account in the air permitting process but would still cause a serious risk to human health and the environment. She said the federal Environmental Protection Agency (EPA) was concerned enough to have recently completed a study concerning ground level fugitive emissions. She said the EPA would release its final report during the fall of 1998. Ms. Cruse said North Carolina had declared a moratorium on the construction of new asphalt plants until the EPA makes its final recommendations on ground level fugitive emissions.

Ms. Cruse also stated the asphalt plant could cause the release of formaldehyde into the air and water. She said she felt a plan to change the natural drainage on the site of the asphalt plant so that water would drain onto state property instead of private property was being done by the Rohe Company to avoid detection of water pollution.

Ms. Cruse concluded by stating her group had contacted many state and local agencies concerning the asphalt plant but had been turned away by all of them. She asked if people had to die before somebody took notice and did something about their problem. She asked the EQSC to tell her where she should go for help with this issue.

Mr. Manders stated that since the County Commissioners had apparently caused the problem, they should be the first group of people to try to solve the problem. He said if the County Commissioners fail to act, Ms. Cruse's group may want to consider suing them.

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<sup>5</sup> A copy of these materials is on file with the Legislative Information Center (see footnote 1).

Mr. Rector said that there were many things the County Commissioners had in their control that they could use to stop the plant from operating. He said these things included taking such actions as lowering weight limits on roads leading to the asphalt plant or not approving plans to alter regulated drainage ditches.

Mr. Rueff indicated he would be happy to meet with Ms. Cruse and discuss her problems. Representative Kruzan also stated Ms. Cruse may want to contact Richard Fish from Bloomington, Indiana. He said Mr. Fish helped stop an asphalt plant from being built in Monroe County.

Grant Smith from the Citizens Action Coalition said the problem Ms. Cruse described was a recurring one. He said the public does not know what is going on until after closed door negotiations have occurred and then it is too late. He was also concerned that, even though property values would be lowered around the asphalt plant, there was no basis to deny the permit because of this.

Senator Gard said that while there were permitting issues involved in this problem that IDEM must examine, this was really an issue that should be handled by local officials. She said the state had been giving more and more flexibility to local officials and they have a lot of authority to deal with this issue.

Representative Kruzan asked Representative Duncan to keep the EQSC informed about the asphalt plant issue.

Representative Kruzan adjourned the meeting at 3:20 P.M.